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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012 - 626**

13 **ALEXIS ANNE FLUEGGE,**
14 **AKA ALEXIS ANNE CARD**
27745 Cobb Lane
Valley Center, CA 92082

15 **Registered Nurse License No. 610273**

A C C U S A T I O N

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about December 6, 2002, the Board of Registered Nursing issued
24 Registered Nurse License Number 610273 to Alexis Anne Fluegge, also known as Alexis Anne
25 Card, RN (Respondent). The Registered Nurse License was in full force and effect at all times
26 relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480;
or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of

1 the crime in order to fix the degree of discipline or to determine if the conviction
2 is substantially related to the qualifications, functions, and duties of the licensee in
question.

3 As used in this section, "license" includes "certificate," "permit,"
4 "authority," and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed
7 nurse or deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

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10 (f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

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13 10. Section 2765 of the Code states:

14 A plea or verdict of guilty or a conviction following a plea of *nolo*
15 *contendere* made to a charge substantially related to the qualifications, functions
16 and duties of a registered nurse is deemed to be a conviction within the meaning
17 of this article. The board may order the license or certificate suspended or
18 revoked, or may decline to issue a license or certificate, when the time for appeal
19 has elapsed, or the judgment of conviction has been affirmed on appeal or when
an order granting probation is made suspending the imposition of sentence,
20 irrespective of a subsequent order under the provisions of Section 1203.4 of the
Penal Code allowing such person to withdraw his or her plea of guilty and to enter
a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
accusation, information or indictment.

21 REGULATORY PROVISIONS

22 11. California Code of Regulations, title 16, section 1444, states:

23 A conviction or act shall be considered to be substantially related to the
24 qualifications, functions or duties of a registered nurse if to a substantial degree it
25 evidences the present or potential unfitness of a registered nurse to practice in a
26 manner consistent with the public health, safety, or welfare. Such convictions or
acts shall include but not be limited to the following:

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- 1 (a) Assaultive or abusive conduct including, but not limited to, those
2 violations listed in subdivision (d) of Penal Code Section 11160.
3 (b) Failure to comply with any mandatory reporting requirements.
4 (c) Theft, dishonesty, fraud, or deceit.
5 (d) Any conviction or act subject to an order of registration pursuant to
6 Section 290 of the Penal Code.

7 12. California Code of Regulations, title 16, section 1445 states:

8 (b) When considering the suspension or revocation of a license on the
9 grounds that a registered nurse has been convicted of a crime, the board, in
10 evaluating the rehabilitation of such person and his/her eligibility for a license
11 will consider the following criteria:

- 12 (1) Nature and severity of the act(s) or offense(s).
13 (2) Total criminal record.
14 (3) The time that has elapsed since commission of the act(s) or
15 offense(s).
16 (4) Whether the licensee has complied with any terms of parole,
17 probation, restitution or any other sanctions lawfully imposed against the
18 licensee.
19 (5) If applicable, evidence of expungement proceedings pursuant
20 to Section 1203.4 of the Penal Code.
21 (6) Evidence, if any, of rehabilitation submitted by the licensee.

22 **COST RECOVERY**

23 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request
24 the administrative law judge to direct a licensee found to have committed a violation or
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
26 and enforcement of the case.

27 **CAUSE FOR DISCIPLINE**

28 (May 18, 2011 Criminal Conviction for Theft of Retail Merchandise on May 10, 2011)

14. Respondent has subjected her registered nurse license to disciplinary action under
Code sections 490 and 2761, subdivision (f), in that she was convicted of a crime that is
substantially related to the qualifications, functions, and duties of a registered nurse. The
circumstances are as follows:

1 a. On or about May 18, 2011, in a criminal proceeding entitled *The People of*
2 *the State of California v. Alexis Anne Fluegge*, in San Diego County Superior Court North
3 County Division, case number CN291414, Respondent was convicted on her plea of guilty of
4 violating Penal Code (PC) sections 484 and 490.5, petty theft of retail merchandise, a
5 misdemeanor. An additional charge for violation of PC section 459, burglary, was dismissed as a
6 result of a plea bargain.

7 b. As a result of the conviction, on or about May 18, 2011, Respondent was
8 sentenced to three years summary probation and to be committed to the custody of the San Diego
9 County Sheriff for one day with credit for two days served. Respondent was also ordered to pay
10 \$928.00 in fees, fines, and restitution.

11 c. The facts that led to the conviction are that on or about May 10, 2011,
12 Respondent, pushing a stroller, entered a store in San Marcos, California. She proceeded to the
13 children's department, selected numerous clothing items and a toy, and went inside the fitting
14 room with all the merchandise. Respondent then pulled a recyclable shopping bag from her purse,
15 arranged the selected items inside, and placed the shopping bag in the cargo area of the stroller
16 directly under the seat. She left the store without paying for the \$277.00 worth of goods. She had
17 money in her purse, but admitted to getting the idea when she visited the store a week earlier,
18 when she left the store with her daughter holding onto a rattle she had picked up in the store
19 without getting stopped.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 610273, issued to
24 Alexis Anne Fluegge, also known as Alexis Anne Card;

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1 2. Ordering Alexis Anne Fluegge, also known as Alexis Anne Card to pay the Board
2 of Registered Nursing the reasonable costs of the investigation and enforcement of this case,
3 pursuant to Business and Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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8 DATED: April 16, 2012

for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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